

**WATER/FLC:jrb**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**WATER DIVISION**

**RESOLUTION NO. W-4400**

**June 5, 2003**

**R E S O L U T I O N**

**(RES. W-4400), CALIFORNIA-AMERICAN WATER COMPANY, (CAL-AM), MONTEREY DIVISION. ORDER AUTHORIZING THE UTILITY TO FILE A SUPPLEMENTAL ADVICE LETTER TO RECOVER THE UNDERCOLLECTION IN ITS CONSERVATION EXPENSE MEMORANDUM ACCOUNT AS OF NOVEMBER 29, 2001 BY INSTITUTING AN OFFSET RATE INCREASE PRODUCING LESS THAN \$1,181,882 (4.19%) IN ADDITIONAL REVENUE FOR A PERIOD OF ONE YEAR.**

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**SUMMARY**

This resolution approves Cal-Am's Advice Letter (AL) No. 577, filed on March 18, 2003, as modified herein. AL 577 seeks to institute a surcharge for a period of one year to generate additional gross revenues of \$1,181,882 or 4.19% in its Monterey Division to recover the undercollection in its Conservation Expense Memorandum Account. This resolution approves the filing of a supplemental advice letter for a lesser amount.

**BACKGROUND**

Cal-Am's Monterey Division serves approximately 38,500 customers in the communities of Monterey, Pacific Grove, Carmel-by-the-Sea, Del Rey Oaks, Sand City, and portions of Seaside, in Monterey County. It is regulated by this Commission, and by the Monterey Peninsula Water Management District (MPWMD). MPWMD was created to manage, augment, and protect water resources in the Monterey area for the benefit of the community and the environment. As a quasi-governmental agency the MPWMD goals are to:

- (1) Augment the water supply through integrated management of surface and ground water resources;
- (2) Promote water conservation (includes rationing, if needed);
- (3) Promote water reuse and reclamation of storm and waste water; and
- (4) Foster the environmental quality, native vegetation, fish and wildlife, scenic values, and recreation on the Monterey Peninsula and in the Carmel River basin.

MPWMD has jurisdiction over a large part of Cal-Am's Monterey Division.

### **PURPOSE OF THE CONSERVATION EXPENSE MEMORANDUM ACCOUNT**

In 1996 the State Water Resources Control Board (State Board) issued Order WR 95-10 (the Order) instituted pumping restrictions with respect to Cal-Am's draw from the lower reaches of the Carmel River and instituted fines and penalties for overuse by its customers. In order to effectuate these use restrictions, CalAm turned to MPWMD Ordinance No. 92<sup>1</sup>, which was passed in the early 1990s and established an expanded water conservation and standby water-rationing plan.

Resolution W-4188, dated February 3, 2000, allowed Cal-Am to establish a Conservation Expense Memorandum Account (the Account) in its Monterey Division and described the items that might be booked to the Account:

“The Company must also, immediately, incur expenditures for large turf audits and for a system audit. Additionally, the MPWMD may also need to incur expenditures for its required customer notifications. These expenditures are recoverable from the company, and may be part of one of the memorandum accounts.”

Section 12.02 of Appendix D of Cal-Am's general rate case Decision (D.) 00-03-053 superseded Resolution W-4188<sup>2</sup> on March 16, 2000:

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<sup>1</sup> The text of the Ordinance is available at  
<http://www.mpwmd.dst.ca.us/ordinances/ord92/ord92final.htm>

<sup>2</sup> Resolution W-4188, Ordering Paragraph 2 terminates the memorandum account on the date of the General Rate Case decision.

**“12.02 Special Request # 2 - Adoption of Ordinance No. 92 as Cal-Am’s Plan for Conservation**

RRB<sup>3</sup> and Cal-Am agree to the adoption of MPWMD’s Ordinance No. 92 as part of Cal-Am’s interim program to comply with SWRCB’s Order WR95-10. To effectuate the Plan, estimated annual expenditures by Cal-Am includes 1) two employees, 2) employment of an outside contractor for large audits, 3) notifications, 4) advertising, 5) miscellaneous programs, 6) retrofitting of toilet, and 7) employment of an outside consultant to perform an audit of Cal-Am’s production, transmission, and distribution. Cal-Am and RRB have also agreed on total annual expenditures of \$550,000 to be authorized in the Conservation Memorandum Account.”

**REQUESTS FOR RECOVERY**

On October 10, 2001, Cal-Am filed AL No. 556 requesting recovery of expenses incurred through 2000. The Water Division (staff) rejected this filing and remanded it to Cal-Am’s next General Rate Case (GRC) for Monterey.

Cal-Am filed for expenses for 2000 and 2001 in Application 02-04-022, April 15, 2002 as Special Rate Request (SRR) #6; however, ORA staff did not conduct a review. Page 48 of the Decision (D.03-02-030) states:

“...Lacking any evidence in the record that these are properly accounted for and reasonably incurred amounts, we arrive at the same conclusion for SRR#6 as for SRR#1: Cal-Am should await and follow the procedures that are established in R.01-12-009 to seek recovery.”

R.01-12-009 (the Balancing Account OIR) interim decision D.02-12-055, dated December 17, 2002, gave all utilities 90 days to file for recovery of balancing account balances as of November 29, 2001. As directed in D.03-02-030, Cal-Am filed the instant advice letter on March 18, 2003 requesting authority under

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<sup>3</sup> RRB is the Ratepayer Representation Branch. It performed the functions now being performed by ORA’s Water and Natural Gas Branch.

Section VI of General Order 96-A and Section 454 of the Public Utilities Code to offset a \$1,181,882 undercollection incurred in 2000 and as of November 29, 2001, by instituting a surcharge on its water quantity rate of \$0.2041 per 100 cubic feet for one year.

The present rates became effective on February 13, 2003, pursuant to D.03-02-030, which authorized a general rate increase.

## **DISCUSSION**

The expenses for 2000 consist of emergency conservation notices for \$67,676, toilet retrofit subsidies passed through by MPWMD of \$94,587, advertisements (\$203,971), employees (\$60,006), outside landscape audits (\$89,272), customer notices (\$34,196), and legal fees (\$46,546). The 2001 expenses were for toilet retrofit subsidies (\$45,676), advertisements (\$309,652), employees (\$73,323), customer notices (\$71,615), and legal costs (\$8,092). Recovery includes interest on the monthly balance in the Account at the monthly average of the 90-day commercial paper rate divided by 12. Cal-Am's workpapers include a copy of each invoice booked to the Account. Staff reviewed every invoice and checked the utility's arithmetic.

Most of the invoices can be classified as reasonable. The conservation notices were sent to customers in the spring of 2000 and the invoices were for printing and mailing. The toilet subsidies were billed by MPWMD, advertisements invoices included graphic design and placement charges, employees' invoices included entries of different amounts of payroll and benefits for different months (data from Cal-Am is that these were new employees, paid out of the Account only, not part-time charges for existing Cal-Am employees), audits were done by two companies that specialize in landscape audits, and customer notices invoices included graphic design and mailing. Some of the invoices, though, are problematic. Customer notices, for example, included an invoice for a tripod screen and projector for use at a meeting at the Hyatt Regency Monterey (pages 10-282 through 10-297) with no explanation (subsequent communication with the utility satisfied staff that this was a public meeting on the conservation rate design, to educate the public and answer questions). But the biggest problem is with the legal fees. There is no allowance for legal costs in the stipulation paragraph adopted in D.00-03-053 (quoted above). A review of the legal invoices indicate some of them were for Order-95-10, not conservation, and some charges were for entirely unrelated activities such as environmental issues for the Carmel

River Dam and other alternative sources of supply. Recovery of these legal costs is not properly included in this memorandum account.

Consequently, Cal-Am should file a supplemental advice letter, removing the costs of all legal fees, and requesting recovery of the new lesser amount. Staff should be authorized to review the filing and, if mathematically accurate, approve the revised surcharge. The supplemental advice letter may refer to the existing workpapers.

### **NOTICE**

In compliance with Section III of General Order No. 96-A, Cal-Am has notified the entities on its advice letter mailing lists. A notice of the proposed rate increase was placed in the March 21, 2003 edition of the Monterey Herald. No responses have been received.

### **FINDINGS**

1. D.00-03-053 authorized California-American Water Company to establish a Conservation Expense memorandum account to comply with the Monterey Peninsula Water Management District's Ordinance No. 92.
2. California-American Water Company was ordered to file by advice letter for recovery of this account as provided in the Balancing Account OIR.
3. The Balancing Account OIR, by interim decision, authorized potential recovery of account through November 29, 2001.
4. Advice Letter No. 577 requests recovery of conservation expenses incurred through November 29, 2001.
5. Most conservation expenses were appropriately charged to the Conservation Expense memorandum account.
6. Legal fees were inappropriately charged to this account.
7. California-American Water Company should be allowed to recover the expenses, excluding legal costs, with interest.

**THEREFORE IT IS ORDERED THAT:**

1. California-American Water Company is authorized to file within 60 days of the effective date of this resolution, a supplement to Advice Letter No. 577, in accordance with General Order 96-A, to make effective revised Schedule No. MO-1, General Metered Service (continued), and concurrently to cancel its then effective rate schedule, to establish a surcharge to recover the balance in its Conservation Expense memorandum account as of November 29, 2001, excluding the recovery of legal fees.
2. Water Division will review the supplement, and, if mathematically and administratively correct, may approve the tariff sheets.
3. If approved, the surcharge shall continue for one-year or until the account balance has been recovered, whichever is sooner.
4. California-American Water Company shall maintain a balancing account to track these revenues against approved expenses as required by Public Utilities Code Section 792.5.
5. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a regular conference of the Public Utilities Commission of the State of California held on June 5, 2003; the following Commissioners voting favorably thereon:

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WILLIAM AHERN  
Executive Director